Wisconsin Economic Development Corporation

Assembly Bill 572 – WEDC Tax Credit Programs
Assembly Committee on Jobs, Economy and Small Business
February 22, 2012

The various tax credit programs administered by the Wisconsin Economic Development Corporation continue to be an important resource in facilitating job creation, retention and capital investment by Wisconsin industries to the benefit of Wisconsin workers and taxpayers.

In the current session, the Legislature has provided additional capacity in both the Economic Development Tax Credit and Jobs Tax Credit programs, while authorizing additional Enterprise Zone designations, all with overwhelmingly bipartisan support.

Assembly Bill 572 makes several minor changes affecting WEDC tax credit programs. These provisions are not expected or intended to have a substantive impact on the programs or how they are used, but do clear up some impractical operational issues.

The provisions of the bill are as follows:

Definition of "Full Time Job"

Current law allows WEDC to award tax credits for job creation under four programs (Jobs Tax Credit, Economic Development Tax Credit, Enterprise Zone Tax Credit and Development Opportunity Zone Tax Credits programs). All four programs define full-time employment status as requiring an employee to work 2,080 hours per year (40 hours per week). However, the Economic Development Tax Credit and Enterprise Zone Tax Credit definitions allow WEDC to grant exceptions to that requirement for employees working no fewer than 37.5 hours per week.

There is an increasing trend among businesses to assign full-time status and provide full-time benefits to employees working fewer than 37.5 hours per week. Some businesses also fall under federal safety regulations that limit certain employees' hours to fewer than 37.5 per week. Continued application of the 37.5 hour standard prevents WEDC from offering tax incentives to some businesses creating jobs with full-time benefits.

The solution under Assembly Bill 572 allows WEDC the discretion to provide incentives in any of the four programs for the creation of positions even if the employees are working less than 37.5 hours per week, provided that the jobs offer an acceptable level of benefits.

Jobs Tax Credit - Wage Threshold

Current law provides that a person is eligible to receive tax benefits under this program for creating jobs that pay a minimum annual salary of at least 150% of the federal minimum wage (currently $22,630). However, the tax benefit is calculated based on the salary amount over $20,000.

Assembly Bill 572 adopts $20,000 (rather than 150% of federal minimum wage) as the wage threshold in order to eliminate confusion that is often experienced by businesses and local economic development partners on that issue.

Jobs Tax Credit – Percentage of Wages

Current law allows WEDC to certify Jobs Tax Credits at 10% of the wages for each eligible employee.

Assembly Bill 572 provides that the tax benefits "may not exceed" 10% of wages. In other words, the change would allow WEDC to award tax benefits at lesser amounts where appropriate and necessary than is authorized under current law. This is a very important change that would prolong and maximize a resource that is limited but in high demand.

Jobs Tax Credit – Clarification of Increased Net Employment

Current law provides that under the Jobs Tax Credit program, a person is eligible to receive tax benefits for each year for which the person creates full-time jobs.

The language is ambiguous in that it could be interpreted to mean that there must be some increase in employment by a business in each year that it receives credits. In practice, WEDC (and in years prior, the Department of Commerce) considers each job created and maintained over the span of the project as an eligible job for the purposes of the tax credit. Assembly Bill 572 clarifies that interpretation.

Enterprise Zone – Capital Investment

Current law requires that the level of capital investment in property in an enterprise zone be at least 10 percent of the business' gross revenues in the preceding tax year attributable to business activities in Wisconsin.

Assembly Bill 572 repeals that provision. Tax benefits for businesses making substantial investments in Wisconsin should be evaluated on the merits of the investment, not on the relation of the investment to the businesses' gross revenues in Wisconsin. Since Enterprise Zone awards typically involve major businesses, the high level of gross revenue could prohibit WEDC from allocating investment credits for worthwhile projects with significant job impacts.

Enterprise Zone – Original Equipment Manufacturer

Current law requires that a business have at least 500 employees or be an original equipment manufacturer with a significant Wisconsin supply chain to be considered for job retention tax credits under the Enterprise Zone program.

Assembly Bill 572 repeals the requirement that businesses must be original equipment manufacturers in order to qualify for job retention tax credits under the Enterprise Zone program. By restricting job retention tax credits to OEMs, this language prevents WEDC from using the Enterprise Zone program to help non-OEM companies retain significant numbers of existing jobs in Wisconsin.

WEDC Annual Report

Current law requires WEDC to file an annual report to the legislature identifying the economic development projects they intend to implement in the "current calendar year", due by January 1. Assembly Bill 572 amends the filing date for the report to coincide with the fiscal year (July 1).